

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

1

**The Minutes**

**February 3, 2003**

- C039164      THE PEOPLE v. SOTO      (Not for Publication)**  
The trial court shall modify the abstract of judgment to change "12022.5 (D)" to "12022.53 (d)." The trial court shall send a certified copy of the modified abstract of judgment to the Department of Corrections. The judgment is otherwise affirmed.  
SIMS, J.  
We concur: Scotland, P.J.  
Hull, J.
- C040333      THE PEOPLE v. DEVISSCHER      (Not for Publication)**  
The judgment is affirmed.  
ROBIE, J.  
We concur: Scotland, P.J.  
Kolkey, J.
- C041638      THE PEOPLE v. HENDERSON      (Not for Publication)**  
The judgment is affirmed.  
CALLAHAN, J.  
We concur: Blease, Acting P.J.  
Morrison, J.
- C041696      THE PEOPLE v. TAUBMAN      (Not for Publication)**  
The judgment is affirmed.  
CALLAHAN, J.  
We concur: Scotland, P.J.  
Robie, J.
- C040598      REYNOLDS v. SIERRACITIES.COM      (Not for Publication)**  
The judgment is reversed. Sierracities shall recover its costs on appeal. (Cal. Rules of Court, rule 36 (a).)  
ROBIE, J.  
We concur: Raye, Acting P.J.  
Callahan, J.
- C041423      PARKER v. WORKERS' COMPENSATION APPEALS BOARD et al.      (Not for Publication)**  
The May 2, 2002, order denying reconsideration is annulled and the matter is remanded for further proceedings consistent with the views expressed in this opinion. Parker shall recover her costs in the review by this court. (Cal. Rules of Court, rule 56.4(a).)  
ROBIE, J.  
We concur: Raye, Acting P.J.  
Morrison, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

2

**The Minutes**

**February 4, 2003**

- C039131      THE PEOPLE v. HUBBARD      (Not for Publication)**  
The judgment is affirmed.  
MORRISON, J.  
We concur:    Blease, Acting P.J.  
                 Hull, J.
- C040035      THE PEOPLE v. MURPHY, JR.      (Not for Publication)**  
The judgment is modified... As modified, the judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect these modifications and also to clearly delineate the particular sentences imposed for the two counts. The court shall forward a certified copy of the amended abstract to the Department of Corrections.  
CALLAHAN, J.  
We concur:    Blease, Acting P.J.  
                 Raye, J.
- C040319      THE PEOPLE v. RANGER INSURANCE COMPANY      (Not for Publication)**  
The judgment is affirmed.  
SIMS, Acting P.J.  
We concur:    Nicholson, J.  
                 Hull, J.
- C040882      THE PEOPLE v. MARKS      (Not for Publication)**  
The judgment is affirmed.  
KOLKEY, J.  
I concur:      Hull, Acting P.J.  
I concur with the majority opinion but write separately to express my reservations about one phrase in CALJIC No. 2.50.02...  
Robie, J.
- C041638      THE PEOPLE v. HENDERSON      (Not for Publication)**  
The judgment is affirmed.  
CALLAHAN, J.  
We concur:    Blease, Acting P.J.  
                 Morrison, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

3

**The Minutes**

**February 4, 2003, continued**

- C038754      TRINKLE v. CALIFORNIA STATE LOTTERY**  
**(Certified for Publication)**  
The judgment is affirmed. Respondent is awarded its costs on appeal.  
(Cal. Rules of Court, rule 26 (a).)  
BLEASE, Acting P.J.  
We concur:    Davis, J.  
                 Morrison, J.
- C042142      In re SAHVANNA E. et al.; SACRAMENTO COUNTY DEPARTMENT OF  
HEALTH AND HUMAN SERVICES v. MELVIN E.**  
**(Not for Publication)**  
The orders terminating appellant's parental rights as to Sahvanna and  
Briana and placing Evaughnte, Mary, and Melvin into long-term foster care are  
affirmed.  
                 SIMS, Acting P.J.  
We concur:    Davis, J.  
                 Nicholson, J.
- C040635      THE PEOPLE v. DAVIS**  
**(Certified for Publication)**  
THE COURT:  
It is ordered that the opinion filed herein on January 7, 2003, be modified  
as follows:...  
There is no change in the judgment.  
FOR THE COURT:  
                 BLEASE, Acting P.J.  
                 NICHOLSON, J.  
                 ROBIE, J.

**February 5, 2003**

- C038590      THE PEOPLE v. WILLIAMS**  
**(Not for Publication)**  
The judgment is affirmed.  
                 ROBIE, J.  
We concur:    Blease, Acting P.J.  
                 Nicholson, J.
- C038917      THE PEOPLE v. HARRIS**  
**(Not for Publication)**  
The judgment is affirmed.  
                 RAYE, J.  
We concur:    Sims, Acting P.J.  
                 Davis, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

4

**The Minutes**

**February 5, 2003, continued**

**C039699      THE PEOPLE v. WESNER      (Not for Publication)**

The judgment is affirmed.

RAYE, J.

We concur:    Blease, Acting P.J.

Sims, J.

**C040088      THE PEOPLE v. TERRA      (Not for Publication)**

The judgment is affirmed.

SIMS, Acting P.J.

We concur:    Callahan, J.

Robie, J.

**C040205      THE PEOPLE v. BROWN      (Not for Publication)**

The judgment is reversed, and defendant's no contest plea is vacated.

CALLAHAN, J.

We concur:    Davis, Acting P.J.

Nicholson, J.

**C038416      SOUTHGATE RECREATION AND PARK DISTRICT v. CALIFORNIA  
C039249      ASSOCIATION FOR PARK AND RECREATION INSURANCE**

**(Certified for Partial Publication)**

The judgment is affirmed. The order awarding attorney fees to CAPRI is reversed. CAPRI's request for attorney fees on appeal is denied. Each party shall pay its own costs on appeal.

**(Certified for Partial Publication)**

DAVIS, J.

I concur in the judgment and in the opinion, except that I write separately on the ground for denial of attorney fees...

For these reasons I agree that attorney fees should be denied.

Blease, Acting P.J.

I concur except for the decision to deny respondent an award of attorney fees. To that holding I dissent...

I respectfully dissent from the majority opinion to the extent it reverses the fee award.

Morrison, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

5

**The Minutes**

**February 5, 2003, continued**

- C041050      DIAMOND CREEK PARTNEWS LTD. et al. v. CITY OF LINCOLN et al.**  
**(Not for Publication)**  
The order denying plaintiffs' motion for attorney fees is affirmed.  
Defendants to recover their costs on appeal. (Cal. Rules of Court, rule 26 (a) (1).)  
ROBIE, J.  
We concur: Raye, Acting P.J.  
Morrison, J.
- C041090      SANTA TERESA CITIZAN ACTION GROUP et al. v. CALIFORNIA ENERGY  
COMMISSION and CALPINE CORPORATION**  
**(Certified for Publication)**  
The judgment of dismissal is affirmed. Defendant and real party in interest  
shall recover their costs on appeal. (Cal. Rules of Court, rule 26 (a) (1).)  
ROBIE, J.  
We concur: Raye, Acting P.J.  
Morrison, J.
- C039391      In re OMAR R.; THE PEOPLE v. OMAR R. (Certified for Publication)**  
The judgment is affirmed.  
RAYE, J.  
We concur: Scotland, P.J.  
Callahan, J.

**February 6, 2003**

- C039338      THE PEOPLE v. BECHTEL** **(Not for Publication)**  
The judgment is affirmed.  
ROBIE, J.  
We concur: Scotland, P.J.  
Raye, J.
- C040172      THE PEOPLE v. RATHBURN** **(Not for Publication)**  
The judgment is affirmed.  
NICHOLSON, J.  
We concur: Davis, Acting P.J.  
Callahan, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

6

**The Minutes**

**February 6, 2003, continued**

- C040843      In re RUSSELL C.; THE PEOPLE v. RUSSELL C.      (Not for Publication)**  
The judgment (order of the court committing the minor to the California Youth Authority) is affirmed.  
DAVIS, Acting P.J.  
We concur:    Nicholson, J.  
                 Callahan, J.
- C040945      In re DANIELLE L.; BUTTE COUNTY CHILDREN'S SERVICES DIVISION v. KENNETH L. and LESTER N. (Not for Publication)**  
The judgment is affirmed.  
DAVIS, Acting P.J.  
We concur:    Nicholson, J.  
                 Callahan, J.
- C041943      In re TAWNY S.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. DEBRA S.      (Not for Publication)**  
The orders of the juvenile court are affirmed.  
CALLAHAN, J.  
We concur:    Scotland, P.J.  
                 Robie, J.

**February 7, 2003**

- C037053      THE PEOPLE v. SLIGHTOM      (Not for Publication)**  
The judgment is affirmed.  
DAVIS, J.  
We concur:    Scotland, P.J.  
                 Nicholson, J.
- C040555      THE PEOPLE v. DAVIS      (Not for Publication)**  
The judgment is modified... As modified, the judgment is affirmed.  
ROBIE, J.  
We concur:    Sims, Acting P.J.  
                 Callahan, J.
- C040162      MOSSBARGER v. MOSSBARGER      (Not for Publication)**  
The judgment is affirmed.  
NICHOLSON, Acting P.J.  
We concur:    Raye, J.  
                 Hull, J.

## 7

**February 7, 2003, continued**

The orders of the juvenile court from the six-month review hearing are vacated. The matter is remanded to the juvenile court with directions to conduct further inquiry regarding the minors' Indian ancestry and to provide notice to the BIA and any identified tribes, unless upon further inquiry, the juvenile court no longer has reason to know that the minors may be Indian children. If the BIA or a tribe determines that the minors are Indian children, the juvenile court is ordered to conduct a new section 366.21, subdivision (e) hearing in conformity with all provisions of the ICWA. If, after proper notice, no response is received from the BIA or a tribe indicating that the minors are Indian children (see *In re Levi U.* (2000) 78 Cal. App. 4th 191, 199 [lack of response by BIA to proper notices relieves juvenile court of further obligations to comply with ICWA]), all previous finding and orders shall be reinstated.

We concur:     Nicholson, J.  
Hull, J.